

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOHAMMAD SALAMEH,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.
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22-cv-3267 (LAK)
(93-cr-0180 (LAK))

ORDER

LEWIS A. KAPLAN, *District Judge.*

Movant and others were convicted in the same criminal case of multiple felony counts in connection with the first World Trade Center bombing, including two counts which charged Section 924(c) violations. In 2016, movant filed a Section 2255 motion challenging his conviction on those counts on the basis of *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Welch v. United States*, 136 S. Ct. 1257 (2016). Dkt. 863.¹ As recounted in a subsequent memorandum and order, movant and others expanded their collateral attack to embrace their convictions on Count Eight. Dkt. 959. After extensive proceedings, the expanded 2255 motion was granted as to Count 10 but denied in all other respects. Dkt. 959. Those rulings all were on the merits. A certificate of appealability was denied by this Court but movant nevertheless filed a notice of appeal. Dkt. 977. In due course, the Court of Appeals also denied a certificate of appealability and dismissed the appeal for lack of "a substantial showing of the denial of a constitutional right." Dkt. 1009.

In these circumstances, movant's present Section 2255 motion is a second or successive application. It a substantial showing of the denial of a constitutional right." may not be entertained by this Court absent authorization by the Court of Appeals. 28 U.S.C. §§ 2255(h), 2244(b). That is true even though this motion raises new claims. *Corrao v. United States*, 152 F.3d 188, 191 (2d Cir. 1998). Accordingly, the Clerk shall transfer this motion to the Court of Appeals pursuant to *Liriano v. United States*, 95 F.3d 119, 123 (2d Cir. 1996).

SO ORDERED.

Dated: April 22, 2022



Lewis A. Kaplan
United States District Judge